  
DOCKET NO. 220303US0X PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
DENIS-CLAUDE ROY, ET AL. : EXAMINER: AFREMOVA, V.  
SERIAL NO: 10/088,072 : GROUP ART UNIT: 1651  
FILED: MARCH 20, 2002 : CONFIRMATION NO: 7574  
FOR: RHODAMINE DERIVATIVES FOR :  
PHOTODYNAMIC DIAGNOSIS AND  
TREATMENT

RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Office Action dated November 25, 2003, Applicants elect, with  
traverse, Group I, Claim 1 for further prosecution.

Remarks begin on page 2 of this paper.

An Attachment appears at the end of this paper, which includes a copy of the  
International Preliminary Examination Report

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Fourthly, Applicants traverse that Restriction Requirement on the additional ground that the Office has not applied the same standard of unity of invention as the International Preliminary Examination Authority. The Authority did not take the position that unity of invention was lacking in the International application and examined all claims together (see attachment). Applicants note that PCT Article 27(1) states that no national law shall require compliance with requirements relating to the form and contents of the International application different from or additional to those which are provided for in the Patent Cooperation Treaty and the Regulations.

Finally, it is noted that MPEP § 803 states that:

If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. In fact, the International Searching Authority has searched all of the claims together.

Applicants have cited references on two separate instances in **Information Disclosure Statements** filed on March 20, 2002, and that which is filed concurrently herewith. The Examiner is respectfully requested to initial the two PTO-1449 forms and include copies of the same with the next Office communication.

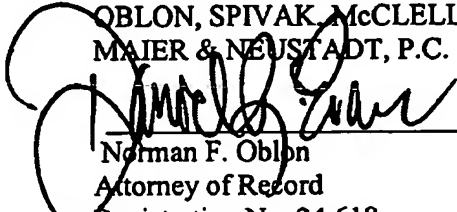
Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

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